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HOUSE JOINT MEMORIAL 05

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE LEGISLATIVE FINANCE COMMITTEE

A JOINT MEMORIAL

REQUESTING A MORATORIUM ON BENEFIT ENHANCEMENT LEGISLATION  
AFFECTING THE PUBLIC EMPLOYEES AND EDUCATORS RETIREMENT SYSTEMS  
AND REQUESTING THAT ALL LEGISLATIVE PROPOSALS PERTAINING TO  
BENEFIT ENHANCEMENTS OF THESE RETIREMENT SYSTEMS BE TABLED.

WHEREAS, Article 20, Section 22 of the constitution of New Mexico states that the legislature shall not enact any law that increases the benefits paid by a public employees retirement system or an educational retirement system in any manner or changes the funding formula for a retirement plan unless adequate funding is provided to cover the cost of the new benefits; and

WHEREAS, the actuarial soundness of these retirement systems is absolutely necessary in order to maintain retirement benefits for public employees and educators; and

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1           WHEREAS, Article 20, Section 22 of the constitution of New  
2 Mexico vests the retirement board of the public employees  
3 retirement system and the board of the educational retirement  
4 system, as trustees, with a fiduciary duty and responsibility  
5 for the administration of their respective retirement system  
6 trust funds; and

7           WHEREAS, Article 20, Section 22 of the constitution of New  
8 Mexico requires that these retirement systems hold all assets  
9 in trust for the sole and exclusive benefit of the retirement  
10 systems' members, beneficiaries and retirees; and

11           WHEREAS, there has been a proliferation of legislative  
12 proposals introduced in recent years pertaining to benefit  
13 enhancements for different groups covered by the public  
14 employees retirement system; and

15           WHEREAS, these benefit enhancements are too recent to have  
16 their costs accurately measured and therefore create  
17 uncertainty in the true level of the funded status of the  
18 public employees retirement system trust funds; and

19           WHEREAS, many of these proposals conflict and may  
20 adversely affect other groups covered by the public employees  
21 retirement system, and passage of multiple benefit enhancement  
22 proposals in any legislative session may cumulatively have a  
23 negative actuarial impact on and cost to this retirement  
24 system; and

25           WHEREAS, beginning in fiscal year 2004, when the earnings  
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1 limitation was eliminated for public employees retirement  
2 system retirees who return to work with affiliated public  
3 employers while continuing to receive pensions, retirements  
4 have increased by nineteen percent; and

5 WHEREAS, over six percent of all public employees  
6 retirement system retirees currently are working for affiliated  
7 public employers; and

8 WHEREAS, a two-year moratorium on retirement system  
9 benefit enhancements will coincide with the December 31, 2006  
10 sunset of the Public Employees Retirement Act's provision  
11 requiring contributions by retired members working for  
12 affiliated public employers, thus allowing for two full years  
13 of experience to determine the full actuarial cost of the act's  
14 return-to-work provisions; and

15 WHEREAS, actuaries state that if the return-to-work  
16 provisions trigger earlier retirements, there will be a cost to  
17 the public employees retirement system trust fund since, under  
18 current actuarial assumptions, actual contributions made on  
19 behalf of members during their careers will not cover the  
20 normal cost of their retirement due to shorter contribution  
21 funding periods and longer retirement payout periods; and

22 WHEREAS, current investment market conditions continue to  
23 challenge the public employees retirement system's actuarially  
24 assumed investment return of eight percent used for purposes of  
25 its actuarial valuations; and

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1           WHEREAS, using a four-year asset-smoothing methodology for  
2 its actuarial valuations, the public employees retirement  
3 system's actuarial valuations for fiscal years 2004, 2005 and  
4 2006 still need to recognize investment losses totaling eight  
5 hundred ninety-one million nine hundred fifty-eight thousand  
6 three hundred eighty-six dollars (\$891,958,386); and

7           WHEREAS, if the public employees retirement system meets  
8 its assumed eight percent rate of return on its investments  
9 during fiscal year 2005 and incurs no other liability gains or  
10 losses, the system's funding ratio will drop to approximately  
11 ninety percent and its overall amortization period will  
12 increase to just under thirty years; and

13           WHEREAS, the public employees retirement system actuaries  
14 have stated a temporary increase in contribution rates may be  
15 necessary to prevent the system's overall amortization period  
16 from exceeding the thirty-year target established by the public  
17 employees retirement board to maintain a strong funding status;  
18 and

19           WHEREAS, the public employees retirement system's basic  
20 funding objective is to meet long-term benefit promises to  
21 retirees and their beneficiaries through contributions, which,  
22 when combined with present assets and future investments, are  
23 sufficient to meet the present and future financial obligations  
24 of the act; and

25           WHEREAS, the retirement board of the public employees

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1 retirement system and its independent actuary must establish  
2 funding periods for benefit enhancements that reflect sound  
3 actuarial principles consistent with the requirements of  
4 Article 20, Section 22 of the constitution of New Mexico; and

5 WHEREAS, the public employees retirement system is a  
6 strong and reliable defined benefit plan that represents a  
7 significant employment benefit for public employees of the  
8 state and needs to be protected from further erosion by special  
9 interests and employer groups seeking to address retention and  
10 recruitment issues through benefit enhancements in lieu of  
11 salary increases; and

12 WHEREAS, the current level of pension benefits provided to  
13 retirees under the public employees retirement system is  
14 already among the most generous in the nation; and

15 WHEREAS, any new benefit enhancement legislation that may  
16 be enacted will carry with it a multi-million dollar unfunded  
17 actuarially accrued liability that will negatively impact the  
18 overall funded status of the public employees retirement  
19 system; and

20 WHEREAS, the educational retirement system's funding ratio  
21 of seventy-six percent, expressed as a ratio of actuarial value  
22 of assets to actuarial accrued liabilities, is less than the  
23 generally accepted satisfactory funding ratio of eighty  
24 percent; and

25 WHEREAS, the educational retirement system's unfunded

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1 actuarial liability, measured as the dollar difference between  
2 the system's actuarial liability and the actuarial value of its  
3 assets, is two billion three hundred million dollars  
4 (\$2,300,000,000); and

5 WHEREAS, the amortization period for the educational  
6 retirement system's unfunded actuarial liability is a period of  
7 infinity, but, as established by the governmental accounting  
8 standards board, should be less than thirty years; and

9 WHEREAS, the educational retirement system's solvency  
10 problems are due in part to poor investment return during the  
11 period of calendar years 2000 through 2002 and insufficient  
12 contributions to the system;

13 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
14 STATE OF NEW MEXICO that a two-year moratorium on benefit  
15 enhancement proposals to the public employees retirement system  
16 and the educational retirement system be imposed through  
17 December 31, 2006; and

18 BE IT FURTHER RESOLVED that all proposed legislation  
19 pertaining to benefit enhancements to the public employees  
20 retirement system and the educational retirement system be  
21 tabled so that the true funded status of those systems can be  
22 better ascertained; and

23 BE IT FURTHER RESOLVED that copies of this memorial be  
24 transmitted to the legislative council service, the legislative  
25 education study committee, the legislative finance committee,

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1 the house appropriations and finance committee, the house  
2 education committee, the senate education committee, the senate  
3 finance committee, the office of the governor, the educational  
4 retirement board and the retirement board of the public  
5 employees retirement system.

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